



STATE OF DELAWARE  
**PUBLIC SERVICE COMMISSION**  
861 SILVER LAKE BLVD.  
CANNON BUILDING, SUITE 100  
DOVER, DELAWARE 19904  
TELEPHONE: (302) 736-7500

November 24, 2021

**MEMORANDUM**

To: The Chairman and Members of the Commission

From: Pamela Knotts, Regulatory Policy Administrator *PK*

Subject: IN IN THE MATTER OF THE PROVISION OF STANDARD OFFER SUPPLY TO RETAIL CONSUMERS IN THE SERVICE TERRITORY OF DELMARVA POWER & LIGHT COMPANY AFTER MAY 1, 2006 (FILED OCTOBER 19, 2004; REOPENED DECEMBER 1, 2021) - PSC DOCKET NO. 04-391

THE MATTER OF THE APPLICATION OF DELMARVA POWER & LIGHT COMPANY FOR APPROVAL TO MODIFY ITS STANDARD OFFER SERVICE SUPPLY RATE TO REFLECT A REVISION TO THE REASONABLE ALLOWANCE FOR A RETAIL MARGIN ("RARM"), PURSUANT TO PSC DOCKET NO. 04-391 (FILED JANUARY 6, 2009; REOPENED DECEMBER 1, 2021) – PSC DOCKET NO. 09-9

---

***Background:***

In Order No. 6746 (October 11, 2005) in Docket No. 04-391, the Commission approved a settlement agreement dated July 14, 2005, with an amendment thereto dated September 28, 2005 (together, the "2005 Settlement Agreement"), which authorized Delmarva Power & Light Company ("Delmarva") to establish a Request for Proposal procurement process for fixed price customers to acquire wholesale electric supply necessary for its Standard Offer Service ("SOS"). The 2005 Settlement Agreement also allowed Delmarva to recover in its SOS supply rate a Reasonable Allowance for Retail Margin ("RARM")<sup>1</sup> and allowed it to recover separately, its

---

<sup>1</sup> When the Commission approved the settlement agreement in PSC Docket No. 04-391, the "Electric Utility Restructuring Act of 1999" directed Delmarva to include in its SOS rates a "reasonable allowance for retail margin to be determined by the Commission." See 26 *Del. C.* § 1006(a)(2)(c), prior to 2006 amendments. With the "Electric Utility Supply Act of 2006" (House Bill No. 6), the General Assembly rewrote § 1006 and, among other things, deleted the reference to "reasonable allowance for retail margin" ("RARM"). While there is no longer any specific statutory requirement for SOS to include a RARM, the new § 1007(c)(1)(a) from the Supply Act of 2006 cites the SOS

transmission costs in a pass-through mechanism whereby the retail rates would collect in aggregate what PJM charges Delmarva.

The Commission has updated the terms of the 2005 Settlement Agreement by various orders through the years. For example, RECs and SRECs are no longer part of the bid plan (PSC Order No. 7432 dated Aug. 19, 2008) and Residential and Small Commercial Contracts are no longer 3 years -- but are now 2-year ladder contracts (PSC Order No. 9064 dated May 23, 2017).

Additionally, there was another settlement agreement approved by the Commission in PSC Docket No. 09-9<sup>2</sup> ("2009 RARM Settlement Agreement") which provided a +/- 5.25% threshold for RARM costs; meaning that unless the total RARM costs increased or decreased by at least 5.25%, the allowed RARM total costs would not change from year to year. If the RARM costs exceeded the threshold in either direction, then Delmarva would submit a formal filing for review. The 2009 Settlement Agreement also set a monthly interest calculation that was based on the difference between the RARM revenues actually collected and the RARM revenues projected, multiplied by the published monthly FERC 35.19a rates and, in the case of an overcollection, the FERC 35.19a plus 200 basis points.

### **Parties' Review:**

In Docket No. 20-0236, Staff stated in its January 8, 2021 Memorandum that after "careful examination by the Company, DPA, and Staff (the "Parties"), it was determined that the language in the 2009 RARM Settlement Agreement needs to be revised to correct certain ambiguities and inconsistencies to more accurately reflect the Company's practices." The Parties agreed that the process the Company is using to calculate the threshold and the monthly interest is consistent with the intent of the 2009 RARM Settlement Agreement. The Parties also agreed in principle to work together to clarify certain aspects of the 2009 RARM Settlement Agreement (including Exhibit A) for consistency and to reflect accurately Delmarva's current practices, and that they would request the Commission's approval of an order reflecting those revisions.

DPA, Staff and Delmarva (the "Settling Parties") met many times to craft a new agreement reflecting the current business practices. It was discussed and decided that instead of only revising the 2009 RARM Settlement Agreement, it would be more appropriate to start with Order 6746 and review each element of the 2005 Settlement Agreement for applicability to today's SOS practices. This process ensured that any changes were still consistent with the intent of the 2005 Settlement Agreement, and where subsequent Commission orders amended the settlement, that such amendments were memorialized so that the new agreement ("Second Amended Settlement Agreement") not only accurately reflects the business practices for the RARM but

---

"procurement process approved in PSC Docket No. 04-391" as comprising a portion of the SOS resource mix, which process includes collection of the RARM at this time.

<sup>2</sup> See PSC Order No. 7703 (Dec. 22, 2009). ¶ 16, states, "This Settlement Agreement may be amended and/or revised to conform with Commission modifications or conditions only by the written agreement of all the parties."

also for the entire SOS procurement process.

The parties worked very hard to make sure the Second Amended Settlement Agreement was comprehensive and accurate and therefore appropriately replaces all prior SOS - RARM settlement agreements and related orders.

**Staff's Recommendation:**

The proposed Second Amended Settlement Agreement is the product of careful examination by Delmarva, the DPA and Staff of the SOS process including, in particular, the RARM calculation. Staff finds that the proposed Second Amended Settlement Agreement reflects the intent of the SOS process including the RARM and the current business practices of Delmarva and is otherwise reasonable. Therefore, Staff respectfully recommends that the Commission approve as final the Second Amended Settlement Agreement.